

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DURELL ANTHONY PUCKETT,  
Plaintiff,  
v.  
HEATH, et al.,  
Defendants.

No. 2:22-cv-00476-DJC-CKD

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. Currently pending before the court are plaintiff's motion to amend his complaint and a motion for a settlement conference. ECF Nos. 36-37. Defendants have filed a statement of non-opposition to the motion to amend, but oppose any settlement conference at this juncture. ECF Nos. 38-39.

This case is proceeding against various correctional officers and one medical employee at the California Medical Facility based on claims of excessive force and deliberate indifference for failing to treat plaintiff after an excessive use of force. By order dated November 15, 2022, the court advised plaintiff that his failure to protect claims against a John Doe Sergeant and a Jane Doe Licensed Vocational Nurse could not move forward to service until such time as "plaintiff has identified the actual identities of these Doe defendants and amended his complaint to substitute the defendants' actual names." ECF No. 12 at 2, n. 1.

1 In plaintiff's motion to amend, he indicates that he just received his lost property  
2 containing his diary notes and 602 forms containing the names of additional defendants. ECF No.  
3 37 at 1. Plaintiff also filed a proposed second amended complaint along with his motion to  
4 amend. ECF No. 35. Defendants do not oppose plaintiff's motion to amend. ECF No. 39. The  
5 court will grant plaintiff's motion to amend his complaint to attempt to cure the defects identified  
6 in the court's prior screening order. See Foman v. Davis, 371 U.S. 178, 182 (1962) (noting that  
7 leave to amend "shall be freely given when justice so requires."). The second amended  
8 complaint will be screened by separate order filed this same date.

9 In light of the filing of the second amended complaint, the court will sua sponte vacate all  
10 pending deadlines in the Discovery and Scheduling Order entered on July 14, 2023. These  
11 deadlines will be reset by subsequent order.

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. Plaintiff's motion to amend the complaint (ECF No. 37) is granted. The court will  
14 screen the second amended complaint by separate order.
- 15 2. All pending deadlines in the court's Discovery and Scheduling Order (ECF Nos. 34)  
16 are sua sponte vacated pending further order of the court.
- 17 3. Plaintiff's motion for a settlement conference (ECF No. 36) is denied without  
18 prejudice to renewal at a later juncture should all parties indicate a willingness to  
19 participate.

20 Dated: October 12, 2023

21   
22 CAROLYN K. DELANEY  
23 UNITED STATES MAGISTRATE JUDGE  
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